
A BILL FOR AN ACT

RELATING TO COLLECTION OF TAXES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Section 231-25, Hawaii Revised Statutes, is
2 amended by amending subsection (b) to read as follows:

3 "(b) The following rules are applicable to the levy as
4 provided for in subsection (a)(2):

5 (1) Seizure and sale of property. The term "levy" as
6 used in this section includes the power of
7 distrain and seizure by any means. Except as
8 provided in paragraph (2), a levy shall extend
9 only to property possessed and obligations
10 existing at the time thereof. In any case in
11 which the director or the director's
12 representative may levy upon property or rights
13 to property, the director may seize and sell the
14 property or rights to property (whether real or
15 personal, tangible or intangible);

16 (2) The effect of a levy on salary or wages payable
17 to or received by a taxpayer shall be continuous
18 from the date the levy is first made until the



1 levy is released. The levy on salary or wages
2 shall attach to twenty-five per cent of any
3 salary or wages payable or received by the
4 taxpayer;

5 (3) Successive seizures. Whenever any property or
6 rights to property upon which levy has been made
7 is not sufficient to satisfy the claim of the
8 State for which levy is made, the director or the
9 director's representative, thereafter, and as
10 often as may be necessary, may proceed to levy in
11 like manner upon any other property liable to
12 levy of the person against whom a claim exists,
13 until the amount due from the person, together
14 with all expenses, is fully paid;

15 (4) Surrender of property subject to levy.

16 (A) Requirement. Any person in possession of
17 (or obligated with respect to) property or
18 rights to property subject to levy upon
19 which a levy has been made, upon demand of
20 the director or the director's
21 representative, shall surrender the property
22 or rights (or discharge the obligation) to



1 the director or the director's
2 representative, except that part of the
3 property or rights as is, at the time of the
4 demand, subject to an attachment or
5 execution under any judicial process;

6 (B) Extent of personal liability. Any person
7 who fails or refuses to surrender property
8 or rights to property, subject to levy, upon
9 demand by the director or the director's
10 representative, shall be liable in the
11 person's own person and estate to the State
12 in a sum equal to the value of the property
13 or rights not so surrendered, but not
14 exceeding the amount of taxes for the
15 collection of which the levy has been made,
16 together with costs and interest on the sum
17 at the rate of eight per cent a year from
18 the date of the levy. Any amount (other
19 than costs) recovered under this
20 subparagraph shall be credited against the
21 tax liability for the collection of which
22 the levy was made;



1 (C) Penalty for violation. In addition to the
2 personal liability imposed by subparagraph
3 (B), if any person required to surrender
4 property or rights to property fails or
5 refuses to surrender the property or rights
6 to property without reasonable cause, the
7 person shall be liable for a penalty equal
8 to fifty per cent of the amount recoverable
9 under subparagraph (B). No part of the
10 penalty shall be credited against the tax
11 liability for the collection of which the
12 levy was made;

13 (D) Effect of honoring levy. Any person in
14 possession of (or obligated with respect to)
15 property or rights to property subject to
16 levy upon which a levy has been made who,
17 upon demand by the director or the
18 director's representative, surrenders the
19 property or rights to property (or
20 discharges the obligation) to the director
21 or the director's representative (or who
22 pays a liability under subparagraph (B))



1 shall be discharged from any obligation or
2 liability to the delinquent taxpayer and any
3 other person with respect to the property or
4 rights to property arising from the
5 surrender or payment; and

6 (E) Person defined. The term "person", as used
7 in subparagraph (A), includes an officer or
8 employee of a corporation or a member or
9 employee of a partnership, who as an
10 officer, employee, or member is under a duty
11 to surrender the property or rights to
12 property, or to discharge the obligation;

13 (5) Production of books. If a levy has been made or
14 is about to be made on any property, or rights to
15 property, any person having custody or control of
16 books or records, containing evidence or
17 statements relating to the property or rights to
18 property subject to levy, upon demand of the
19 director or the director's representative, shall
20 exhibit those books or records to the director or
21 the director's representative;



1 (6) Property exempt from levy. Notwithstanding any
2 other law of the State, no property or rights to
3 property shall be exempt from levy other than the
4 following:

5 (A) Wearing apparel and school books. Those
6 items of wearing apparel and those school
7 books that are necessary for the taxpayer or
8 for members of the taxpayer's family;

9 (B) Fuel, provisions, furniture, and personal
10 effects. If the taxpayer is the head of a
11 family, so much of the fuel, provisions,
12 furniture, and personal effects in the
13 taxpayer's household, and of the arms for
14 personal use, livestock, and poultry of the
15 taxpayer, as does not exceed \$500 in value;

16 (C) Books and tools of a trade, business, or
17 profession. So many of the books and tools
18 necessary for the trade, business, or
19 profession of the taxpayer as do not exceed
20 in the aggregate \$250 in value;

21 (D) Unemployment benefits. Any amount payable
22 to an individual with respect to the



1 individual's unemployment (including any
2 portion thereof payable with respect to
3 dependents) under an unemployment
4 compensation law of the United States or the
5 State; and

6 (E) Undelivered mail. Mail, addressed to any
7 person, which has not been delivered to the
8 addressee; and

9 (7) Sale of the seized property.

10 (A) Notice of sale. The director shall take
11 possession and keep the levied property
12 until the sale. After taking possession,
13 the director shall sell the taxpayer's
14 interest in the property at public auction
15 after first giving fifteen days public
16 notice of the time and place of the sale in
17 the district, and by posting the notice in
18 at least three public places in the district
19 where the sale is to be held;

20 (B) Assistance in seizure and sale. The
21 director may require the assistance of any
22 sheriff or authorized police officer of any



1 county to aid in the seizure and sale of the
2 levied property. The director may further
3 retain the services of any person competent
4 and qualified to aid in the sale of the
5 levied property, provided that the consent
6 of the delinquent taxpayer is obtained. Any
7 sheriff or the person so retained by the
8 director shall be paid a fair and reasonable
9 fee but in no case shall the fee exceed ten
10 per cent of the gross proceeds of the sale.
11 Any person other than a sheriff so retained
12 by the director to assist the director may
13 be required to furnish bond in an amount to
14 be determined by the director. The fees and
15 the cost of the bond shall constitute a part
16 of the costs and expenses of the levy;

17 (C) Time and place of sale. The sale shall take
18 place and be completed within [~~thirty~~] one
19 hundred eighty days after seizure; provided
20 that [~~by public announcement at the sale, or~~
21 ~~at the time and place previously set for the~~
22 ~~sale, it may be extended for one week. Any~~



1 ~~further extension of the sale shall be with~~
2 ~~the consent of the delinquent taxpayer. The~~
3 ~~sale, in any event, shall be completed~~
4 ~~within forty five days after seizure of the~~
5 ~~property,] the time period set herein shall~~
6 ~~be tolled during the pendency of any action~~
7 ~~commenced by any person relating to the~~
8 ~~seized property until a final order is~~
9 ~~rendered in that action, whether by~~
10 ~~stipulation with the person or by court~~
11 ~~order, or upon the expiration of any~~
12 ~~extended time as may be agreed upon;~~

13 (D) Manner and conditions of sale. Sufficient
14 property shall be sold to pay all taxes,
15 penalties, interest, costs, and expenses.
16 On payment of the price bid for any property
17 sold, the delivery thereof with a bill of
18 sale from the director shall vest the title
19 of the property in the purchaser. No charge
20 shall be made for the bill of sale. All
21 surplus received upon any sale after the
22 payment of the taxes, penalties, interest,



1 costs, and expenses, shall be returned to
2 the owner of the property sold, and until
3 claimed shall be deposited with the
4 department subject to the order of the
5 owner. Any unsold portion of the property
6 seized may be left at the place of sale at
7 the risk of the owner; and

8 (E) Redemption of property. If the owner of the
9 property seized desires to retain or regain
10 possession thereof, the owner may give a
11 sufficient bond with surety to produce the
12 property at the time and place of sale, or
13 pay all taxes, penalties, interest, costs,
14 and expenses."

15 SECTION 2. Statutory material to be repealed is bracketed
16 and stricken. New statutory material is underscored.

17 SECTION 3. This Act shall take effect upon its approval.



Report Title:

Taxes; Delinquent, Collection; Sale of Seized Property; Timing

Description:

Increases the amount of time that the department of taxation has within which to sell property that has been seized due to a failure of the taxpayer to pay the tax delinquency and provides for a tolling of the time period if any party commences an action concerning the seized property. (SD1)

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